

REMARKS/ARGUMENTS

The Office Action mailed April 21, 2005 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Applicant hereby requests acknowledgement of the Information Disclosure Statements filed on December 27, 2000 and April 2, 2001.

In view of the Examiner's earlier restriction requirement, Applicant retains the right to present claims 1-18 and 29-50 in a divisional Application.

The 35 U.S.C. § 103 Rejection

Claims 19-28 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Sitaraman et al.¹ in view of Takahashi et al.², among which claims 19, 23, 27 and 28 are independent claims. This rejection is respectfully traversed.

The Office Action, page 4, indicated that "[i]t should be noted that the Sitaraman reference is commonly assigned and the rejection using it could be overcome with an affidavit stating that the references were commonly assigned at the time of the invention". Applicant refers to M.P.E.P. 715.01(b) which states that "[w]here... a rejection is applied under 35 U.S.C. 102(f)/103 or 35 U.S.C. 102(g)/103, or, in an application filed on or after November 29, 1999, under 35 U.S.C. 102(e)/103 using the reference, a showing that the invention was commonly

¹ U.S. Patent No. 6,857,019

² U.S. Patent No. 6,259,705

owned, or subject to an obligation of assignment to the same person, at the time the later invention was made would preclude such a rejection or be sufficient to overcome such a rejection. Applicant further refers to M.P.E.P. 706.02(1)(2)(II) states that "[a]pplications and references (whether patents, patent applications, patent application publications, etc.) will be considered by the examiner to be owned by, or subject to an obligation of assignment to the same person, at the time the invention was made, if the applicant(s) or an attorney or agent of record makes a statement to the effect that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person."

As such, Applicant has attached an affidavit making such a statement with respect to the present application and the Sitaraman reference. Applicant therefore respectfully requests that the 35 U.S.C. §103 rejection be withdrawn.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.


If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST, LLP



Dated: _____

6/13/05

Marc S. Hanish

Reg. No. 42,626

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 292-5800
Fax. (408) 287-8040